

Application Serial No.: 10/673,846  
Amendment and Response to March 23, 2006 Non-Final Office Action

## **REMARKS**

Claims 1 – 7 and 15 -17 are in the application. Claims 1 – 7, 15, and 16 are currently amended; claims 8 - 14 are canceled, and claim 17 is newly added to the application. Claims 1, 15, and 16 are the independent claims herein.

Claims 1, 15, and 16 are currently amended to incorporate aspects recited in the previous version of claims 8 and 10 – 12. Accordingly, no new matter is added to the application as a result of the amendments included herewith.

Reconsideration and further examination of the application are respectfully requested.

### **Information Disclosure Statement**

The Office Action stated that Cite Nos. I and K on the information disclosure statement, I.D.S., filed 09/29/03 have not been considered as to their merits because the document numbers do not match the listed applicant named. In reply thereto, Applicant submits herewith a supplemental I.D.S. that corrects the typographical error of the I.D.S. filed 09/29/03.

Applicant respectfully requests the entry and consideration of the items listed on the supplemental I.D.S. submitted herewith.

### **Specification**

The Abstract of the disclosure was objected to for, allegedly, not sufficiently describing the disclosure. A replacement Abstract is submitted herewith for entry and consideration in the application. Support for the replacement Abstract may be found, at least, in claims 1, 15, and 16. Accordingly, Applicant respectfully submits that the replacement Abstract overcomes the objection of record.

Application Serial No.: 10/673,846  
Amendment and Response to March 23, 2006 Non-Final Office Action

The Specification was objected to for repeating the word "that" at page 7, line 16. By way of an amendment submitted herewith, Applicant has deleted the repeated "that", as indicated in the replacement paragraph.

Therefore, Applicant respectfully requests reconsideration and withdrawal of the objections to the Specification.

#### **Claim Objections**

Claims 6 and 8 were objected to based on informalities kindly noted by the Examiner. In response thereto, Applicant has amended claim 6 to correct the dependency of the claim, thereby removing the informality. The objection to claim 8 is moot since claim 8 is now canceled.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the objections to claims 6 and 8.

#### **Claim Rejections – 35 USC § 112, 2<sup>nd</sup> Paragraph**

Claims 5, 6, 9, 11, and 13 were rejected under 35 U.S.C. 112, 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 5 and 6 have been amended as suggested by the Office Action to overcome the rejections thereto under 35 U.S.C. 112, 2<sup>nd</sup> paragraph. The rejection of claims 9, 11, and 13 is moot since claims 9, 11, and 13 are now canceled.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 5, 6, 9, 11, and 13 under 35 U.S.C. 112, 2<sup>nd</sup> paragraph.

#### **Claim Rejections – 35 USC § 101**

Claim 14 was rejected under 35 U.S.C. 101 for allegedly being directed to non-statutory subject matter. Claim 14 is now canceled. Accordingly, the rejection thereof is moot.

Application Serial No.: 10/673,846  
Amendment and Response to March 23, 2006 Non-Final Office Action

Applicant respectfully requests the reconsideration and withdrawal of the rejection of claim 14 under 35 U.S.C. 101.

**Claim Rejections – 35 USC § 102(b)**

Claims 1 - 16 were rejected as being anticipated by Diacakis et al., US 2002/0116336 (hereinafter, Diacakis). This rejection is respectfully traversed.

Regarding the rejection of claim 1, Applicant respectfully notes that claim 1 relates to a method that includes determining a device context for a device associated with an identity, wherein the device context provides an availability status of the device; determining an identity context for the identity, wherein the identity context provides an availability status of the identity; determining an availability rule associated with the identity; and determining a true availability of the identity based, at least in part, on the device context, the identity context, and the availability rule. Clearly, the claimed device context provides an availability status of the device and the claimed true availability of the identity is based, at least in part, on the device context, the identity context, and the availability rule. Applicant notes that the device context provides an indication of a status of a device. Furthermore, the claimed true identity is based on, at least in part, the claimed device context, identity context, and availability rule. Applicant respectfully notes that claims 15 (reciting an article of manufacture) and claim 16 (reciting a system) are worded similar to claim 1.

Applicant respectfully submits that the cited and relied upon Diacakis does not disclose or suggest, at least, the claimed "determining a device context for a device associated with an identity, wherein the device context provides an availability status of the device" and "determining a true availability of the identity based, at least in part, on the device context, the identity context, and the availability rule". Applicant reiterates that the claimed device context provides an indication of a status of a device.

The Office Action cites and relies upon Diacakis paragraphs [0038], [0040], [0043], [0044], [0056], and FIG. 8 for allegedly disclosing determining a device context (see previous claim 8). In contrast to claims 1, 15, and 16, Diacakis discloses, at most,

Application Serial No.: 10/673,846  
Amendment and Response to March 23, 2006 Non-Final Office Action

determining a presence of an individual or group or individuals, not a status of a device. In particular, Diacakis discloses, "determine an individual's presence upon particular networks" (paragraph [0038]), "determine, to the extent possible, the individual's presence ...based upon time of day information and known scheduling/calendar information" (paragraph [0040]), "determine if the individual is present on a landline telephone" and "determine if the individual is present on his mobile phone" (paragraph [0043]), and "determine if the individual is present on such a network, such as his personal computer" (paragraph [0044]).

Thus, it is abundantly clear that Diacakis discloses determining a presence (i.e., status) of an individual based on, for example, location and schedule. The explicit Diacakis process(es) that determines the presence of an individual is not the same as or suggestive of Applicant's claimed determining a device context for a device associated with an identity, wherein the device context provides an availability status of the device.

Furthermore, Diacakis does not disclose or suggest determining a true availability of the identity based, at least in part, on the device context, the identity context, and the availability rule.

Therefore, Applicant respectfully submits that the cited and relied upon Diacakis does not disclose that for which it was cited and relied upon for disclosing. In particular, Diacakis fails to disclose each and every aspect of claims 1, 15, and 16 as is required for anticipation under 35 USC 102(b).

Accordingly, Applicant respectfully submits that claims 1, 15, and 16 are patentable over Diacakis under 35 USC 102(b) for at least the reasons stated hereinabove. Claims 2 - 7 and 17 depend from claim 1. Applicant respectfully submits that claims 2 - 7 and 17 are also patentable over Diacakis under 35 USC 102(b) for at least depending from a patentable base claim. Therefore, the reconsideration and withdrawal of the rejection of claims 1 - 7 and 15 - 17 are respectfully requested, as well as the allowance of same.

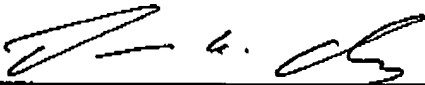
Application Serial No.: 10/673,846  
Amendment and Response to March 23, 2006 Non-Final Office Action

### CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (650) 694-5339.

Respectfully submitted,

June 22, 2006  
Date

  
\_\_\_\_\_  
David D. Chung  
Registration No. 38,409  
(650) 694-5339

SIEMENS CORPORATION  
**Customer Number: 28524**  
Intellectual Property Department  
170 Wood Avenue South  
Iselin, New Jersey 08830

Attn: Elsa Keller, Legal Department  
Telephone: 732-321-3026